

List of Subjects in 48 CFR Part 223 and 252

Government Procurement.

Claudia L. Naugle,

Deputy Director, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 223 and 252 are amended as follows:

1. The authority citation for 48 CFR Parts 223 and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 223—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

2. Section 223.7102 is amended by adding paragraph (a)(9) to read as follows:

§ 223.7102 Exceptions.

(a) * * *

(9) The treatment and disposal of any non-DoD-owned material if the Secretary of the military department concerned—

(i) Determines that the material is required or generated by a private person in connection with the authorized and compatible commercial use by that person of an industrial-type facility of that military department; and

(ii) Enters a contract with that person that—

(A) Is consistent with the best interest of national defense and environmental security; and

(B) Provides for that person's continued financial and environmental responsibility and liability with regard to the material.

* * * * *

3. Section 223.7103 is revised to read as follows:

223.7103 Contract clause.

(a) Use the clause at 252.223-7006, Prohibition on Storage and Disposal of Toxic and Hazardous Materials, in all solicitations and contracts which require, may require, or permit contractor performance on a DoD installation.

(b) Use the clause at 252.223-7006 with its Alternate I, when the Secretary of the military department issues a determination under the exception at 223.7102(a)(9).

3. Section 252.223-7006 is amended by revising the introductory text and by adding an Alternate I to read as follows:

252.223-7006 Prohibition on storage and disposal of toxic and hazardous materials.

As prescribed in 223.7103(a), use the following clause:

* * * * *

Alternate I (Mar 1995)

As prescribed in 223.7103(b), add the following paragraphs (c) and (d) to the basic clause:

(c) With respect to treatment or disposal authorized pursuant to 10 U.S.C. 2692(b)(9), and notwithstanding any other provision of the contract, the Contractor assumes all financial and environmental responsibility and liability resulting from any treatment or disposal of non-DoD-owned toxic or hazardous material on a military installation. The Contractor shall indemnify, defend, and hold the Government harmless for all costs, liability, or penalties resulting from the Contractor's treatment or disposal of non-DoD-owned toxic or hazardous materials on a military installation.

(d) The Contractor shall include this clause, including this subparagraph (d) in each subcontract.

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48 CFR Part 235

Defense Federal Acquisition Regulation Supplement; Federally Funded Research and Development Centers

AGENCIES: Department of Defense (DoD)

ACTION: Interim rule with request for comments.

SUMMARY: The Director of Defense Procurement has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to allow DoD-sponsored FFRDCs that function primarily as research laboratories to respond to solicitations and announcements for programs which promote research, development, demonstration, or transfer of technology.

DATES: Effective date: March 3, 1995.

Comment date: Comments on the interim rule should be submitted in writing at the address shown below on or before May 9, 1995, to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulation Council, ATTN: Mr. R.G. Layser, PDUSD(A&T)DP/DAR, IMD 3D139, 3062 Defense Pentagon, Washington, D.C. 20301-3062. Telefax Number (703) 602-0350. Please cite DFARS Case 94-D306 in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Layser (703) 602-0131.

SUPPLEMENTARY INFORMATION:

A. Background

Section 217 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337) allows DoD-sponsored FFRDCs that function primarily as research laboratories to respond to solicitations and announcements for programs which promote research, development, demonstration, or transfer of technology. This interim DFARS rule implements this allowance.

B. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense to issue this rule as an interim rule. Compelling reasons exist to promulgate this rule without prior opportunity for public comment because Section 217 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337) became effective upon enactment of the Act, October 5, 1994. This interim rule is necessary to ensure that DoD contracting activities become aware of the statutory allowance of DoD-sponsored FFRDCs that function primarily as research laboratories to respond to solicitations and announcements for programs which promote research, development, demonstration, or transfer of technology. However, comments received in response to the publication of this rule will be considered in formulating the final rule.

C. Regulatory Flexibility Act

The proposed changes to DFARS Part 217, are not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule allows a very limited number of FFRDCs to respond to solicitations and announcements for programs which promote research, development, demonstration, or transfer of technology. The rule is expected to benefit small entities involved in technology research, development, demonstration or transfer who can establish teaming arrangements with FFRDCs. An Initial Regulatory Flexibility Analysis (IRFA) has been prepared and may be obtained from the address stated herein. A copy of the IRFA has been submitted to the Chief Counsel for Advocacy of the Small Business Administration.

D. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96-511) does not apply because this

rule does not impose any new recordkeeping, information collection requirements, or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR part 235

Government procurement.

Claudia L. Naugle,

Deputy Director, Defense Acquisition Regulations Council.

Therefore, 48 CFR Part 235 is amended as follows:

PART 235—RESEARCH AND DEVELOPMENT CONTRACTING

1. The authority citation for 48 CFR Part 235 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

2. Section 235.017-1 is added to read as follows:

§ 235.017-1 Sponsoring agreements.

(c)(4) DoD-sponsored FFRDCs that function primarily as research laboratories may respond to solicitations and announcements for programs which promote research, development, demonstration, or transfer of technology (Section 217, Pub. L. 103-337).

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INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1312 and 1314

[Ex Parte No. 444]

Electronic Filing of Tariffs

AGENCY: Interstate Commerce Commission (ICC).

ACTION: Final rule.

SUMMARY: The ICC amends its regulations to reflect the *status quo* with respect to the rules for filing electronic and printed tariffs, and terminates the Ex Parte No. 444 proceeding. This action codifies in the regulations the tariff filing rules which have existed for the past five years as a result of the partial stay of the Commission's 1989 decision in Ex Parte No. 444, and ends the proceeding.

EFFECTIVE DATES: The amendments in this final rule are effective April 8, 1995. Effective April 8, 1995, the rule removing part 1312, which was published at 54 FR 6404 and stayed at 54 FR 10533 and 54 FR 42959, is withdrawn and part 1312 continues in

effect. The effective date of part 1314, which was added at 54 FR 6404 and stayed at 54 FR 10533 and 54 FR 42959, is November 8, 1989.

FOR FURTHER INFORMATION CONTACT:

James W. Greene, (202) 927-5602, or Thomas A. Mongelli, (202) 927-5150. TDD for the hearing impaired: (202) 927-5721.

SUPPLEMENTARY INFORMATION: In a notice of proposed rulemaking (NPR) served December 15, 1994, and published at 59 FR 64646 (1994), we proposed to amend parts 1312 and 1314 of our regulations to codify the tariff filing rules which have been in effect for the past five years as a result of a partial stay of an earlier Commission decision,¹ and to terminate the Ex Parte No. 444 proceeding. The current rules authorize electronic tariff filing by rail carriers but not by other carriers; in the NPR we indicated our willingness to consider individual special tariff authority requests for electronic filing by non-rail carriers. Comments were filed by two interested parties,² both of which support the Commission's proposal.

HGCBC states that, although it understands the reasons for and supports the Commission's decision, it is disappointed in the termination of the effort to develop methods and standards for filing electronic tariffs. HGCBC believes that electronic tariff filing has merit, and it indicates its willingness to assist the Commission in a renewed effort to develop an electronic tariff filing system if circumstances change.

NITL strongly endorses the Commission's proposal. NITL states that it has participated in the Ex Parte No. 444 proceeding from the beginning, and that its position throughout the proceeding has been that, if tariff filing is to be retained, tariff filing rules must promote efficient and simple tariff use. NITL expresses its view that the enactment of the Trucking Industry Regulatory Reform Act of 1994 (TIRRA) has eliminated the need for electronic tariff filing, and that the likelihood of further statutory changes to tariff filing requirements makes it unnecessary to expend limited resources on this issue at this time.

¹ *Electronic Filing of Tariffs*, 5 I.C.C.2d 279 (1989); 54 FR 6403 and 9052 (1989).

² The Household Goods Carriers' Bureau Committee (HGCBC), and The National Industrial Transportation League (NITL). The Association of American Railroads and each Class I Railroad, while not filing formal comments, submitted a letter indicating that they did not object to the course of action outlined in the NPR.

After careful consideration, we have decided to amend the regulations and terminate the proceeding as proposed.³

Regulatory Flexibility

The rules adopted herein do not impose additional burdens on tariff filers or others; rather, they merely codify the rules that are currently in effect as a result of the partial stay of an earlier Commission decision.

Environmental Statement

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects

49 CFR Part 1312

Household goods freight forwarders, Motor carriers, Moving of household goods, Pipelines, Tariffs, Water carriers.

49 CFR Part 1314

Railroads, Tariffs.

Decided: February 17, 1995.

By the Commission, Chairman McDonald, Vice Chairman Morgan, Commissioners Simmons and Owen.

Vernon A. Williams,
Secretary.

For the reasons set forth in the preamble, title 49, chapter X, parts 1312 and 1314 of the Code of Federal Regulations are amended as follows:

PART 1312—REGULATIONS FOR THE PUBLICATION, POSTING AND FILING OF TARIFFS, SCHEDULES AND RELATED DOCUMENTS OF MOTOR, PIPELINE AND WATER CARRIERS, AND HOUSEHOLD GOODS FREIGHT FORWARDERS

1. The heading of part 1312 is revised to read as set forth above.

2. The authority citation for part 1312 continues to read as follows:

Authority: 5 U.S.C. 553; 49 U.S.C. 10321, 10762 and 10767.

PART 1314—REGULATIONS FOR THE PUBLICATION, POSTING AND FILING OF TARIFFS AND RELATED DOCUMENTS OF RAIL CARRIERS

3. The heading of part 1314 is revised to read as set forth above.

4. The authority citation for part 1314 is revised to read as follows:

Authority: 5 U.S.C. 553; 49 U.S.C. 10321, 10708, 10761, and 10762.

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³ We will correct the heading of part 1312 to include reference to household goods freight forwarders, which was inadvertently omitted from the proposed rule.